

IN THE UNITED STATES DISTRICT COURT FOR

THE MIDDLE DISTRICT OF ALABAMA, CIVIL DIV.

JIMMIE E. PARKER, PROSE
PLAINTIFF/PETITIONER

RECEIVED

2007 JUL -9 A P

CIVIL CASE No. #

V.

TROY KING, AL. ATTNY. GEN. ET. AL, IN OFFICIAL

CEBRA P. HACKETT, CLERK
 U.S. DISTRICT COURT
 MIDDLE DISTRICT ALA

2:07CV624-WKW

AND INDIVIDUAL CAPACITY, AND

TO BE SUPPLIED BY COURT CLERK

W.M. COPPAGE, DIR. OF AL. DEPT.
OF PUBLIC SAFETY, ET. AL, IN OFFICIAL

CAPACITY AND,

RICHARD ALLEN, ET. AL. COMM. OF

AL. DEPT. OF CORR.S, IN OFFICIAL CAPACITY
DEFENDANTS

MOTION FOR PRELIMINARY INJUNCTION, AND AFFIDAVIT

COMES NOW PETITIONER IN THE ABOVE STYLED CAUSE AND MOVES
 THIS HONORABLE COURT TO GRANT THIS PRELIMINARY INJUNCTION,
 PURSUANT TO FEDERAL RULES OF CIVIL PRO., RULE 65, ENJOINING
 ALL ABOVE NAMED DEFENDANTS FROM APPLYING AND/OR ENFORCING,
 IN WHOLE OR IN PART, ANY PROVISION OF THE COMMUNITY NOTIFICATION
 ACT, AL. TITLE CODE 15-20-20 ET. AL. (HEREINAFTER THE ACT),
 AND TO ORDER THEY REMOVE PETITIONER'S NAME AND INFORMATION
 FROM ALL PUBLICALLY DISSEMINATED REGISTRIES, TO INCLUDE, BUT NOT
 LIMITED TO, THE INTERNET AND THE COMMUNITY NOTIFICATION FLYER.
 UNTIL THE CONCLUSION OF THE ATTENDANT CIVIL CASE, AND FOREVER
 THEREAFTER IF DECIDED IN PETITIONER'S FAVOR.
 AS GROUNDS FOR THIS MOTION, PETITIONER AVERS AS FOLLOWS:

(1)

1/ THE FOLLOWING ARE EXAMPLES OF SIMILAR CASES WHERE INJUNCTIVE RELIEF HAS ISSUED;

STATE V. C.M., 746 So.2d, 410, (AL. Cr. App. 1999), Temporary Stay of Application of the Act,

Act. violated Ex Post Facto clause of the U.S. Const, because 1998 amendment created penalty not prescribed in 1996 at time of adjudication,

M.W.D. V. State 748 So.2d, 225 (AL. 1999), injunction AGAINST RESIDENCE RESTRICTIONS FOR JUVENILES, inflicts greater punishment than was authorized at time of classifying offense.

DOE V. PRYOR, U.S. 11th Dist., 61 F. Supp. 1224 (AL. 1999) INJUNCTION AGAINST Community Notification.

CREEKMORE V. A.G., 341 F. Supp. 648, U.S. 5th Dist. (2004) INJUNCTION AGAINST Registration AND Community Notification, citing DOE V. PRYOR, NOTING ALABAMA'S Act. deprives a person of many rights, AND CHANGES A PERSON'S LEGAL STATUS.

2. 4 PRONG TEST FOR INJUNCTIVE RELIEF, cited in

CLARK CONSTR. CO. V. PENNA, 930 F. Supp. 1470 (1996)

A. A SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS,
SEE COMPLAINT AND;

(A)(1) STATUTES ARE NOT TO BE APPLIED RETROACTIVELY ABSENT EXPRESSED RETROACTIVE LANGUAGE. ANY STATUTE NO MATTER HOW LABELED, CIVIL OR CRIMINAL, WHICH REMOVES CONSTITUTIONALLY VESTED RIGHTS, ALTERS ONE'S STATUS UNDER THE LAW, CREATES NEW OFFENSES FOR CONDUCT LEGAL PRIOR TO THE ACT/STATUTE, IMPOSES AFFIRMATIVE DISABILITIES AND RESTRAINTS, AS DOES THE ACT, WHEN APPLIED RETROACTIVELY TO AN OFFENSE OCCURRING BEFORE THE EFFECTIVE DATE OF THE ACT, VIOLATES CONST. LAW PROHIBITING DOUBLE JEOPARDY, AND EX POST FACTO LAWS, AND VIOLATES THE SEPARATION OF POWERS DOCTRINE, THE PRIVILEGES AND IMMUNITIES CLAUSE, AND THE EQUAL PROTECTION OF THE LAWS, AND DUE PROCESS

THE ACT CONTAINS NO RETROACTIVE LANGUAGE. THE EXACT OPPOSITE IS TRUE, WHEREIN THE LEGISLATIVE INTENT SECTION STATES, "THE PROPER EXERCISE OF THE STATES POLICE POWER TO REGULATE PRESENT AND ONGOING CONDUCT, ETC.", CAN NEVER BE SAID TO APPLY TO A SINGLE OFFENSE, OCCURRING OVER A DECADE PRIOR TO THE EFFECTIVE DATE OF THE ACT,

THEN DUE TO THE CONCURRENTLY EFFECTIVE 13A-11-200- REGISTRATION OF SEX OFFENDERS, WHICH WAS IN EFFECT AT TIME OF OFFENSE AND ACHIEVES ALL THE CONSTITUTIONALLY PERMISSIBLE GOALS STATED IN THE INTENT SECTION, TO SUBJECT PLAINTIFF TO A SECOND REGISTRATION UNDER SEPARATE STATUTE, WHETHER INFORMATION HAS CHANGED OR NOT, MAKES THE LEGAL CONSEQUENCES — — — CONT. —

(Cont.) TEST FOR INJUNCTIVE RELIEF

- MORE ONEROUS, WITH INCREASED OBLIGATIONS IN PRIOR NOTICE, AND REGISTRATION IN GREATER FREQUENCY, WITH ATTENDANT PUBLIC DISEMINATION OF INFORMATION VIA THE INTERNET AND THE COMMUNITY NOTIFICATION FLYER, WHICH IMPOSES AFFIRMATIVE DISABILITIES AND RESTRAINTS ON LIBERTY AND FREEDOMS IN THE HOUSING AND EMPLOYMENT RESTRICTIONS, AND THE HISTORICAL PUNISHMENT OF BRANDING, IN THE FIXING OF A SEX OFFENDER DESIGNATION ON ANY STATE ID, OR DRIVERS LICENSE, VIOLATES MANY CONST. VESTED RIGHTS AND CONST. LAWS, WHEN APPLIED RETROACTIVELY FOR AN OFFENSE OCCURRING MORE THAN A DECADE PRIOR TO THE ACT.

REMEDIAL STATUTES ARE THOSE WHICH IMPAIR NO VESTED RIGHT. SEE;

KITTRELL V. BENJAMIN, 396 So.2d, 93, 94 (AL 1981)

JONES V. CASEY, 445 So.2d 875 (AL 1983)

SENIORS CIVIL LIBERTIES ASS'N. V. KEMP, ← CITED IN ^{WHITE V. US, 191, 486 U.S. 295 (1903)}
761 F. Supp. 1528 (11th Cir. 1991)

PLAINTIFF BELIEVES STRONGLY IN THE CONSTITUTION AND LAWS OF THE LAND, AND A SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS OF THIS CASE,

TEST FOR INJUNCTIVE RELIEF (CONT.)

B. IRREPARABLE INJURY TO PETITIONER IF INJUNCTION ORDER DOES NOT ISSUE.

(B)(1) PLAINTIFF WILL SUFFER GROSS VIOLATIONS OF CONST. VESTED RIGHTS AND CONST. LAWS, RESTRAINTS ON LIBERTY AND FREEDOMS, POSSIBLE ARREST AND PROSECUTION RESULTING IN SUBSTANTIAL FELONY PENALTIES FOR EVEN PROCEDURAL AND/OR UNKNOWING INNOCENT VIOLATIONS, CONSTITUTES A CLASS C FELONY AND THE STATE HAS DETERMINED THE CRIMINAL HABITUAL FELONY OFFENDER ACT-13A-5-9 APPLIES TO CONVICTIONS OF THIS SUPPOSED CIVIL REMEDIAL STATUTE.

EXAMPLES OF APPLICATION OF THE H.F.O.A., 13A-5-9;

CADDELL V. STATE, 833 So.2d 87 (AL. 2001)

BOYD V. STATE, LEXIS 18 (AL. CR. AP. 2006)

SELLERS V. STATE, LEXIS 262 (AL. 2005)

GIVING PLAINTIFF A POSSIBLE SENTENCE OF 10 TO 99 YRS, OR LIFE, BECAUSE OF PRIORS, FOR VIOLATIONS OF THIS "CIVIL REMEDIAL STATUTE," PLAINTIFF IF AN INJUNCTION DOES NOT ISSUE WILL SUFFER PSYCHOLOGICAL STRESSES, DAMAGE TO PSYCHE, FAMILY DISASSOCIATIONS, PUBLIC STIGMA, SCORN, OSTRACISM, HUMILIATION, RESTRICTIONS AND LOSS OF OPPORTUNITIES FOR HOUSING, EMPLOYMENT AND CONTRACTS OF FINANCE FOR SAME, FEAR OF, AND POSSIBLE PHYSICAL ASSAULTS,

TEST FOR INJUNCTIVE RELIEF (cont.)

C. THREATENED INJURY OUTWEIGHS ANY DAMAGE INJUNCTION MAY CAUSE OPPOSING PARTY.

(C)(1) FOR INJURY TO PETITIONER SEE THE FOREGOING (B)(1).
DEFENDANTS WILL SUFFER NO DAMAGE OR INJURY.

D. IF ISSUED NOT ADVERSE TO THE PUBLIC INTEREST.

(D)(1) PETITIONER'S REGISTRATION UNDER 13A-11-200, REGISTRATION OF SEX OFFENDERS, PETITIONERS KEEPING A CURRENT ADDRESS WITH THE COURTS, AND THE USUAL CRIMINAL STATUTES, WILL KEEP LAW ENFORCEMENT AND THE COURTS WELL AWARE OF PETITIONER'S WHEREABOUTS AND PROTECT THE PUBLIC INTEREST.

SWORN Affidavit Under 28 USC, § 1746

1. PETITIONER IS ENDING A DUTY SENTENCE ON JULY 25TH, 2007, WITH NO PAROLE NOR PROBATION.

2. PETITIONER HAS A SINGLE, OUT-OF-STATE, 1983, MISDEMEANOR CONVICTION, FOR SEXUAL BATTERY OF A MINOR, FOR WHICH THE SENTENCE WAS 2YRS. PROBATION.

3. PETITIONER IS NOT REQUIRED TO REGISTER UNDER ANY FEDERAL GUIDELINES.

THE 1994 JACOB WETTERLING ACT, 42 U.S.C.S. 14071 (A)(1)(A) AND (B)(6)(A)(1)(A) STATES THE DURATION OF LENGTH OF REGISTRATION, FOR A SINGLE OFFENSE AGAINST A MINOR OR A SEXUALLY VIOLENT OFFENSE IS 10 YRS. FROM RELEASE OF CUSTODY,

THE 2006 ADAM WALSH ACT, 42 U.S.C.S. 16911(2) AND 16915(A)(1), STATES THE DURATION OF LENGTH OF REGISTRATION IS 15 YRS. FOR A TIER ONE OFFENDER, AFTER RELEASE FROM CUSTODY.

PETITIONER IS WELL BEYOND THE DURATION OF REGISTRATION PERIODS, FOR A SINGLE, 1983, MISDEMEANOR OFFENSE, WITH 2 YRS. PROBATION.

4. PETITIONER CONCEDES REGISTRATION UNDER AL. TITLE CODE 13A-11-200, THE STATUTE IN EFFECT AT TIME OF OFFENSE, AND CONCURRENTLY IN EFFECT WITH THE ACT., LIMITING INFORMATION ACCESS TO LAW ENFORCEMENT ONLY.

SEE: AL. TITLE CODE 13A-11-200 AND 15-20-33(C)

5, PETITIONER'S NORMAL OCCUPATION AND EMPLOYMENT, FOR 30 YRS, IS COMMERCIAL AND RESIDENTIAL SERVICES OF PAINTING AND LAWN CARE, IN THE COARSE OF WHICH I MAY WORK AT SEVERAL DIFFERENT AND/OR NEW LOCATIONS DURING A DAY AND/OR WEEK.

SOMETIMES TRAVELING BOTH INTRASTATE AND/OR INTERSTATE ON AS LITTLE AS 24 HRS. NOTICE.

MAKING IT IMPOSSIBLE TO COMPLY WITH THE 'ACTS.' ADVANCE NOTICES OF CHANGES IN RESIDENCE AND EMPLOYMENT LOCATIONS, AND THE RESTRICTIONS THEREOF, AND IN VIOLATION OF MY PERSONAL AND PROPERTY RIGHTS IN LIBERTY AND FREEDOM OF MOVEMENT, RIGHT OF INTERSTATE TRAVEL, RIGHT TO FREELY APPLY MY TRADE, AND THE RIGHT TO CONTRACT,

6, PETITIONER, IF INJUNCTION DOES NOT ISSUE, WILL ALSO SUFFER, PSYCHOLOGICAL STRESSES, DAMAGE TO PSYCHE, FAMILY DISASSOCIATIONS, PUBLIC STIGMA, SCORN, OSTRACISM, HUMILIATION, RESTRICTIONS OF AND LOSS OF OPPORTUNITIES FOR HOUSING, EMPLOYMENT AND CONTRACTS OF FINANCE FOR SAME, CREATING AFFIRMATIVE DISABILITIES AND RESTRAINTS, AN ALTERED OPPRESSIVE LEGAL STATUS UNDER THE LAW, VIOLATIONS OF CONSTITUTIONALLY VESTED RIGHTS, POSSIBILITIES OF ARRESTS AND PROSECUTIONS WITH SEVER FELONY PENALTIES PLUS SENTENCE ENHANCEMENTS FOR EVEN INNOCENT VIOLATIONS, AND CONDUCT THAT WAS LEGAL AT TIME OF CLASSIFYING CONVICTION, OVER A DECADE BEFORE THE "ACTS", PASSAGE, AND FEAR OF, AND POSSIBLE PHYSICAL ASSAULTS,

PRAYER FOR RELIEF

PETITIONER PRAYS this Honorable Court issue orders prohibiting ALL defendants from applying AND/OR ENFORCEING AS A WHOLE OR IN PART, ANY PROVISION OF The Community Notification Act, ALABAMA TITLE CODE 15-20-20 ET. AL., AND to ORDER the REMOVAL of PETITIONER'S NAME AND information from ALL publically disseminated REGISTRIES, to include but not limited to the INTERNET AND the community notification FLYER.

Respectfully Submitted

Jimmie E. Parker

Jimmie E. PARKER.

Attestation, Certificate and proof of Service, Under 28 USC. 1746

I CERTIFY UNDER 28 USC. 1746 AND PENALTY OF PERJURY, THE FOREGOING TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT COPIES OF SAME HAVE BEEN MAILED TO THE DISTRICT COURT CLERK, FOR SERVICE ALONG WITH THE COMPLAINT AND SUMMONSES, UNDER 28 USC. 1915 ~~IN FORMA~~ PAUPERIS, AND 28 USC. 1915 (d), AND FEDERAL RULES OF CIVIL PRO., Rule 4(c)(2)-PROVIDING FOR SERVICE BY THE COURT CLERK, ON THE PARTIES NAMED AND ADDRESSED BELOW, AND IN THE COMPLAINT AND SUMMONSES, THIS

5th day of July, 2007. Jimmie E. Parker

Defendants

TROY KING, AL. ATTNY GEN.
11 SOUTH UNION ST., 3RD FLR.
MONTGOMERY, AL 36130-0151

W.M. COPPAGE, DIR. AL. DEPT.
OF PUBLIC SAFETY
P.O. Bx. 1511
500 DEXTER AVE.
MONTGOMERY, AL 36102

RICHARD ALLEN, Comm.
AL. DEPT. OF CORR.S
1400 LLOYD ST.
MONTGOMERY, AL 36107

Jimmie E. PARKER A/S. 199999
HAMILTON A+I D-7 4-B
223 SASSER DR.
HAMILTON, AL 35570

Mailed to;
U.S. DIST. COURT CLERK
P.O. Bx. 711
MONTGOMERY, AL 36101-0711

COUNTY OF Marion
STATE OF Alabama

SUBSCRIBED AND SWORN BEFORE ME THIS
5 day of July, 2007.

Lillie Ann Williford
NOTARY

My Commission Expires 7-15-09

comm. exp. date

(10)